

ZONING BOARD OF APPEALS

OCTOBER 20, 2014 MEETING MINUTES

Present: Chairman Ron Nolland, Maurica Gilbert, Michelle LaBounty,
Scott DeMane, Kathy Latinville (Alt.)
Joseph McMahon, Building Inspector

Absent: Connie Fisher, Karl Weiss

Also Present:

Appeal #2014 Tom Murnane, Esq.
Mark Dame

Appeal #2015 Christopher Booth, CVPH
Jesse Daniels, Daniels Signs
Tony Drollett

Mr. Nolland called the meeting to order at 7:03 PM. The following 4 items were on tonight's agenda.

APPEAL	APPLICANT	REQUEST
2007	TRACY VICTORY-ROSENQUEST AND CHRIS ROSENQUEST 92 BRINKERHOFF STREET	CLASS B VARIANCE PARKING DEFICIENCY DUE TO COFFEE SHOP
2008	TRACY VICTORY ROSENQUEST AND CHRIS ROSENQUEST 92 BRINKERHOFF STREET	CLASS A VARIANCE OPERATE A COFFEE SHOP IN A FIVE BEDROOM BED & BREAKFAST
2014	GARRANDS MOTORSPORTS 52 BOYNTON AVENUE	CLASS A VARIANCE REQUEST TO OPERATE RECREATION VEHICLE SALES & SERVICE IN INDUSTRIAL DISTRICT
2017	ICON HEATHER MOORE (CVPH) 75 BEEKMAN STREET	CLASS B VARIANCE SIGNAGE IN RESIDENTIAL DISTRICT

Mr. Nolland advised the agenda order will be changed. A request has been made from the Rosenquest's to postpone for another month. Last month those 2 appeals were postponed on the board's behalf.

MOTION:

By Ms. Gilbert, seconded by Mr. DeMane

**FOR APPEALS #2007 AND 2008, TO FURTHER POSTPONE AT THE BOARDS
REQUEST OFFICIALLY BUT BY VERBAL REQUEST FROM THE APPLICANTS
BECAUSE THEY NEED MORE TIME FOR INFORMATION POSTPONING UNTIL
NEXT MONTH'S MEETING AND ACKNOWLEDGING THE 62 DAY CLOCK HAS
NOT YET STARTED**

ALL IN FAVOR: 5

APPROVED

The next item heard was Appeal #2014 Garand's Motorsport, 52 Boynton Avenue to operate a recreation vehicle sales and service in industrial district.

[Meter 4:05]

Mr. Nolland started this discussion saying they are receipt of a letter from Steven J. Primo, Harris Beach dated September 15, 2014.

Mr. Murnane also gave out a copy of a tax map and assessment information.

A letter dated October 13, 2014 was also received giving Thomas Murnane authority to act on the applicants behalf.

Mr. Murnane explained the 2 Garrand boys are interested in opening a recreational/vehicle facility at the former Kinney Drug property, 52 Boynton Avenue in Plattsburgh.

The building was constructed in 1994 and owned by the partners stated. They leased to Kinney Drugs for a certain period of time. Approximately 1 year ago Kinney Drugs relocated to a new building at the corner of Veterans Lane and Boynton Avenue. Since that day, this building has been sitting vacant.

The partners and his client have been attempting to lease this building since that period of time. The applicant has not had any viable tenants coming forward. A few inquiries have been made. (Please see Sept. 15, 2014 letter).

The Garand's have been the first viable tenants to be replaced in this building.

The property is zoned industrial. In the zoning ordinance, there are several different uses allowed. This is obviously an industrial use zone. Mr. Murnane questioned how the Kinney Drug use was ever allowed to exist in this location, being its zoned industrial. He thought this use was a retail use and that somehow was an allowed use in that zone.

Mr. McMahon explained after some research – the building was rebuilt in 1992. There were retail-type uses prior to that. That's how that use got grandfathered into that district. Since Agway had a similar use or Checkerhill Farms – they were able to continue that. Mr. Murnane asked again if this was a grandfathered use because of the use next door. Mr. McMahon said it was pre-existing.

Mr. Murnane reiterated this building has obviously been vacant since Kinney Drugs has moved out and is falling into disrepair. The Garrand's have a definitive use. The owners understand that Use Variances are intentionally hard to get. There is very specific criteria in which a use variance has to meet in order to be awarded. This board is aware of those and codified in the City law and codified in State law.

Mr. Murnane discussed the Use Criteria:

1. *The Property has to be unique.*

Mr. Murnane stated there was no question that this property is somewhat unique. The building as indicated by the Building Inspector was a grandfathered use. The building was allowed to be constructed. It's existed since 1992 and used as a Kinney Drugs Store. It has adequate parking in the front. It's a very deep parcel as per the tax map but only 148 ft. wide. It's boarded by the D&H railroad ROW on the East and the existing Kinney Drug Store to the West, as well as a few other uses in the back, one being a redemption center and the other a small engine repair shop. That shop is not very dis-similar to what these gentlemen are proposing to do with this property. So the property itself is clearly unique, not only in shape, the existing building is there. The confines of the surrounding properties clearly makes it unique.

2. *The essential character of the neighborhood would be changed.*

If this use is allowed it will not change. Mr. Murnane reiterated the above surrounding properties. [Meter 11:30] The store is perfect for this proposed use. There is a lot of room inside for show casing.

3. *Is this a self-created hardship?*

Mr. Murnane stated in their opinion, it's not. They constructed this building with the understanding that the use would be grandfathered. It's been a Kinney Drug Store for a long time. It's not a self-created hardship on the part of the owners of the property.

4. *Reasonable return.*

This is the hardest criteria to meet. Referring to the zoning ordinance, there are several uses that are allowed use in this zone. Mr. Murnane then listed those uses. Junkyards are a special permitted use. He stated those particular uses are intrusive to the community and to the area. Across the street are residences. Under the current zoning, you can put a manufacturing plant there which to him seems ridiculous.

What the Garrand's are proposing is putting a recreational sales facility. There will be some small engine repair work done on those particular vehicles. There will be no junk material left outside. He referenced Mr. Primo's letter referring to monthly expenses. He explained further expenditures that the applicant has. [Meter 15:30]

Mr. Murnane again reiterated some of the allowed uses would be ridiculous uses for this building and yet they are allowed uses under the zoning ordinance. In his opinion, in reviewing the specific criteria to get a use variance, he didn't think there was any question that the owners of the

property have an unnecessary hardship. That they cannot get a reasonable return for this property. They've tried to do this for approximately 1 year and been unable to do so. He referenced the expenses and stated they have more than met their burden of proof and cannot realize a reasonable return on a use that's allowed in this zone.

Mr. Murnane stated he didn't think there was any question that this property is very unique as stated above. He doesn't think the use that the Garrand's are asking for is going to change the essential character of the neighborhood. On the other side of the tracks is a small car dealership.

The use as proposed is not going to change the essential character of the neighborhood. The hardship is not self-created.

Ms. Gilbert interrupted saying there was an application problem. Last month, when given the application, the board was not given the full application. The environmental review form – pages 7 – 13 had no answers. So there were no answers to look at. Those pages were eventually turned in but not provided to the zoning board so the board has not seen the full environmental answered questions or any kind of an application. She explained the application process. [Meter 18:27]

Mr. Murnane advised they have been provided with Mr. Primo's letter outlining a lot of the hardship.

[Meter 19:03 – 26:00 - Discussion about the use, different variance requirements, very strict on how the board deals with 4 qualifying items, administration issue, postponing on board's behalf, allowed uses, initial investment, lack of reasonable return, unusual property, Use Variance for small engine shop, Use Variance for auto sales (Racine), not a complete application, 5 member zoning board.]

Jeff Garrand added there was confusion as to the SEQR. Mr. McMahon added the issue is that the 4 questions are specifically answered.

Mr. Nolland suggested November 7th as the deadline to submit the correct information. He will be glad to meet with the applicants.

Mr. Nolland then asked if there were audience in attendance for this appeal. There were not. Clinton County deemed this a local issue. Mr. Murnane asked for a copy of this.

Mark Dame stated there is some highly detrimental things that could happen if this was pushed off another month. There was a pain-staking application process that the Garrand's went through with three different manufacturers. The process was long and arduous. The granting of the franchise from Dame Motorsports to them is dependent on specific locations and specific buildings. If this is put off another month, the application process will have to be started all over again.

He didn't know why waiting another month would give more information than what Mr. Murnane very articulated stated. It could kill the entire deal. It's not just a minor inconvenience and tens of thousands of dollars.

Mr. Nolland stated they don't have enough information. It's a formal process. It's a formal process. Mr. Dame asked if someone couldn't have advised them of this information. This is the 2nd month.

Jeff Garrand said at last month's meeting, they didn't have the letter from Steve Primo. He figured Steve's letter was enough to answer the 4 questions.

Mr. Murnane said he can add additional information which will re-emphasis all the points raised this evening. Ms. Gilbert mentioned the revenue coming in. Mr. Murnane said he will do more with him. He referenced the taxes being paid on an empty building.

Mr. Nolland understood the implications of postponing this. Items need to be presented properly.

Mr. DeMane said the financials were the big issue.

MOTION:

By Ms. Gilbert, seconded by Ms. LaBounty

REGARDING APPEAL #2014, GARRANDS MOTORSPORTS, 52 BOYNTON AVENUE CLASS A VARIANCE THAT THE BOARD WILL POSTPONE THIS APPLICATION, AT THE BOARDS REQUEST UNTIL THE NEXT MEETING IN ORDER TO GAIN MORE INFORMATION AND A FULLY FILLED OUT SEQR, FULLY FILLED OUT APPLICATION AND ESPECIALLY THE DETAILED FINANCIAL INFORMATION THAT THE BOARD IS ASKING FOR.

ALL IN FAVOR: 5

The last item heard was Appeal #2017, Icon-Heather Moore (CVPH), 75 Beekman Street, for a Class B Variance for signage in residential district.

[Meter 38:00]

Jesse Daniels, Daniels Signs and Christopher Booth, CVPH were in attendance for this appeal.

Mr. Booth said ICON is the company that they were working with for the bid process and as the subcontractor. Mr. Daniels is the sub-sub-contractor and local installer.

This was sent to Clinton County Planning Board and deemed a local issue.

Mr. Nolland started this discussion saying the board does not think this is a PUD. In 1990 they received a use variance for signs. There are a whole list of signs in this request, most of which seem to be replacing existing signs. Mr. Booth said for the most part, this will be a one-to-one replacement.

Mr. Nolland thought this request was confusing due to the amount of signs being replaced. He didn't have a clear idea of how many there are. Mr. Booth said the information was there. Mr. Nolland stated they should be listed as "current" and then "proposed."

Mr. Daniels added most signs are pretty close to the same size currently existing.

Ms. LaBounty said it also should be stated "directional" or "wall."

Mr. Nolland said most of the signs you can only see on the CVPH Campus itself. They are directional signs. Most will be replaced with new signs. Mr. Booth added they are providing service to the public. Without these signs would greatly compromise that service.

[Meter 43:57 - Discussion on the sign Page 17, confusing, requesting spreadsheet tabulating square footage, needing total sign square footage, treating differently signs on street vs. internal, raised letter calculations].

Mr. Daniels clarified a channel letter would be a raised letter and a plate letter would be around 1/4" thick letter. Everything is pretty close to what was existing. The main entrance sign on Beekman Street is a few additional square feet and the main sign on the building will be bigger. Other than that, everything else is straight forward. He did do totals, before and after. They are not exact but close.

Mr. Daniels stated there will be 3 exterior road signs.

[Discussion Page 17 (Beekman St. signage), 2 square feet difference, not counting granite as part of signage, Page 18 - will have less square footage, correct inaccuracies in numbers, having the information in a tabular form].

Mr. Booth asked if they needed a variance for the internal directional signs. Ms. Gilbert said yes. Mr. McMahon added if they are larger than 3 square feet – yes.

Ms. LaBounty thought this could be done in November. Mr. Daniels said the hospital is changing over shortly. Mr. Booth said their branding process is all coordinated to tie in with a system-wide branding change, which is a huge deal and has to do with hospitals across the Lake, Elizabethtown and CVPH. This all launches on November 12th. ICON wants to be moving forward with sign bases and digging pedestals in the near term.

Mr. Drollett said he was concerned about the sign on Cornelia Street. His one concern was making the Cornelia Street entrance a main entrance to the hospital because of traffic flow. His house is right near the entrance and traffic flow now is horrible. He hates to see more traffic there.

Mr. Booth explained one of the 3 signs positioned at one of the street entrances is actually changing somewhat to provide a little bit more focus. The sign on Prospect will be changing a little bit and provide a little bit more information on it. He referenced truck traffic.

Mr. DeMane mentioned the sign on Prospect is shown incorrectly on the map. (F13).

Mr. Nolland said some will be interior directional signs. Some will be illuminated with an LED light within the sign itself.

There will also be wall signs and entrance signs.

The “W” means a wall sign. The “D” means a directional sign. The “F” means entrance sign.

[Meter 1:03 - Discussion regarding square footage of variance request, square footage of each “F” (entrance) sign, judge application on what had been submitted, no signs being excessive, recognizing what signage means, Emergency signs staying exactly the same].

Mr. Booth said the sign that shows “University of Vermont Health Network,” (page 10) of the application, is radically different from anything they have on the campus right now. There is nothing up there right now. It puts it on the 7th floor of the R building. If there is going to be an issue with any of the proposed signs, this would be the one. This one is way different than the current sign. This will not be illuminated.

Mr. Nolland believed what CVPH is asking for is a 84 square foot increase in the existing for wall signage. He also clarified the don’t use signs are an increase of a maximum of 84 SF. The 3 “F” signs are 12 square foot more.

Mr. Nolland asked if part of the name will still have CVPH. Mr. Booth said no, CVPH will not be the acronym any longer. "Champlain Valley Physicians Hospital" will be part of the name.

Mr. Nolland then discussed the "Area and Dimensional Variances." [Meter 1:19]

The Long Form SEQR was then discussed. [Meter 1:20]

The following changes/additions were made to the SEQR:

Page 1	Add "residential."
Page 2 5(b)	Change "yes" to "no."
Page 2	Check "Urban"

Mr. Nolland then closed the public hearing portion of the meeting for this appeal. [Meter 1:24]

MOTION:

By Ms. LaBounty, seconded by Mr. DeMane

THE BOARD FINDS FOR QUESTIONS 1-11, PART 2 OF THE SHORT FORM SEQR THAT THE CORRECT ANSWER THAT THE BOARD WILL FIND AND PUT ON THE FORM IS THAT NO OR SMALL IMPACT MAY OCCUR

ALL IN FAVOR

MOTION:

By Ms. Gilbert, seconded by Mr. DeMane

TO CHECK THE BOX THAT THEY HAVE DETERMINED BASED ON THE INFORMATION AND ANALYSIS ABOVE AND SUPPORTING DOCUMENTATION THAT THE PROPOSED ACTION WILL NOT RESULT IN ANY SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT AND CHECK THE APPROPRIATE BOX

Mr. DeMane questioned did they need permanent landscaping for each sign. Mr. Booth said they do. Ms. Gilbert added to decorate in some way. Mr. Nolland suggested perennials.

[Discussion on total wall signage numbers, submitting square footage plus and minus numbers on Excel spread sheet, existing and proposed, totals, maximum increase over existing.]

MOTION 2017A:

By Ms. Gilbert, seconded by Ms. Latinville

THAT THE BOARD HEREBY RECOGNIZES THAT THE 1990 GRANT OF APPEAL #996 RELATES TO THE EXISTING SIGNAGE AS SHOWN IN THIS APPLICATION (CLARIFYING THE 1990 MOTION THAT IT'S SUPPORTED BY THE PAPERWORK)

Ms. Gilbert explained this motion saying we are giving them the blessing even though there were no numbers in that 1990 application, these were the numbers.

VOTE:

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

Mr. Booth stated for the record he has no problem with Mr. DeMane voting on this appeal.

MOTION 2017B:

By Ms. Gilbert, seconded Ms. Latinville

FOR APPEAL #2017 PART B, CVPH REGARDING SIGNAGE IN A RESIDENTIAL DISTRICT CLASS B VARIANCE TO ALLOW AN ADDITIONAL 84 SQUARE FEET OF WALL SIGNAGE OVER WHAT IS EXISTING PRESENTLY, WALL SQUARE FOOT OF ROAD SIGNAGE OVER WHAT IS EXISTING NOW AND 3 SQUARE FEET OF INTERIOR DIRECTIONAL SIGNAGE OVER WHAT IS EXISTING NOW, BASED UPON FULL REPORT BY BLAIR COMPANIES, 48 PAGES LONG DETAILING HOW EACH INDIVIDUAL SIGN ITS LOCATION, THE ORIGINAL SIZE AND THE PROPOSED SIZE

AMENDED:

By Mr. DeMane and Ms. Gilbert, seconded by Ms. Latinville

THAT THEY WILL PROVIDE AN EXCEL SPREADSHEET SUMMARIZING ALL TOTAL SIGNAGE TO THE BUILDING INSPECTOR WITHIN 2 WEEKS AND USING THE CODE RULES FOR SQUARE FOOTAGE (RECALCULATING CORRECTLY)

ALL IN FAVOR: 5

OPPOSED: 0

MOTION PASSED

Motion to Adjourn:

By Mr. DeMane, seconded by Ms. Gilbert

Adjourned at 8:45 PM

For the purpose of this meeting, this meeting was recorded on the VIQ System in the Common Council Chambers. This is a true and accurate copy and transcription of the discussion.

Denise Nephew
Secretary
Zoning Board of Appeals